United States Senate

WASHINGTON, DC 20510

August 9, 2010

Mary Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Schapiro:

The financial regulatory reform Conference Report authorizes the SEC to establish rules governing access to the proxy. It is important to point out that the legislation does not mandate that the SEC issue a rule at all. In fact, during conference the language was changed from a mandate to permissive language. Should the Commission, after weighing the costs and benefits of granting proxy access, determine that doing so is necessary to protect investors and will promote efficiency, competition, and capital formation, then the Commission must consider what conditions should be imposed on such access and whether any exemptions should be afforded. The SEC has the authority under the Conference Report to exempt an issuer or class of issuers.

Although the Commission's most recent proposal on proxy access asks several questions about a potential exclusion, the questions are not of sufficient scope to elicit the type of information that the Commission would need to determine whether an exclusion from any proxy access rule is necessary. The Commission will need to consider how a proxy access rule would affect a whole range of issues at different sizes and types of companies.

For example, would proxy access dissuade private companies from going public or encourage public companies to go private? Would a proxy access requirement make it more difficult for companies to recruit qualified directors? Would the time and resources that companies spend on compliance related to a proxy access requirement and proxy contests outweigh any identified benefit from such a requirement? Would a proxy access requirement pose a particular danger to shareholders of smaller reporting companies or new companies that, for example, might be particularly vulnerable to campaigns by shareholders with particular interests that are not reflective of the interests of shareholders as a whole? Would a proxy access requirement impose disproportionate costs on smaller reporting companies?

These are only a few of the considerations that the Commission should take into account before adopting a proxy access rule. At a time when capital formation and job creation are in jeopardy, the Commission should be particularly careful not to impose unnecessary requirements on public companies.

Thank you for your attention and we look forward to your response at your earliest convenience.

Sincerely,

Mike Crapo | Richard Shelby
Jim Bunning | Jim DeMint
Judd Gregg | Kay Bailey Hutchison
Mike Johanns | Robert F. Bennett
David Vitter | Bob Corker

cc: Commissioner Luis Aguilar
Commissioner Kathleen Casey
Commissioner Troy Parades
Commissioner Elisse Walter